

Honorable Marc Barreca  
Chapter 7  
Hearing Location: ZoomGov  
Hearing Date: September 13, 2023  
Hearing Time: 10:00 AM  
Response Date: September 6, 2023

UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON

In re: : Chapter 7 Proceeding  
:   
WAYNE RICHARD PELUSO and : Case No.: 23-11187-MLB  
RONI SUE PELUSO, :   
Debtor(s). : NOTICE AND MOTION TO  
: AVOID JUDGMENT LIEN  
:   
:

NOTICE OF HEARING AND MOTION

**PLEASE TAKE NOTICE** that a hearing on debtors Motion to Avoid Judgment Lien is  
set for hearing as follows:

JUDGE:	Honorable Marc L. Barreca	DATE: September 13, 2023
PLACE:	ZoomGov	TIME: 10:00 AM

**ZOOMGOV ACCESS INFORMATION**

Join ZoomGov Meeting

<https://www.zoomgov.com/j/1607704823?pwd=TUYxditUQ211OWdNeXVuYlZ5bTdBUT09>

Meeting ID: 160 770 4823

Passcode: 781136

One tap mobile

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NOTICE AND MOTION TO  
AVOID JUDGMENT LIEN

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Meeting ID: 160 770 4823  
Find your local number:

<https://www.zoomgov.com/join/9161111111>

**IF YOU OPPOSE** the Motion, you must file your written response with the Clerk's office of the bankruptcy court and deliver copies to the undersigned and the Chapter 7 Trustee NOT LATER THAN THE RESPONSE DATE, which is September 6, 2023. If you file a response, you are also required to appear at the hearing.

**IF NO RESPONSE IS TIMELY FILED AND SERVED, THE COURT MAY, IN ITS DISCRETION, GRANT THE MOTION PRIOR TO THE HEARING WITHOUT FURTHER NOTICE, AND STRIKE THE HEARING.**

*Dated: 08/01/2023*

Moving Party,

/s/ Steven C. Hathaway

Steven C. Hathaway, WSBA #24971

Attorney for Debtor(s)

MOTION TO AVOID JUDGMENT LIEN

**COMES NOW** Roni Sue Peluso ("Debtor"), by and through her attorney Steven C. Hathaway, pursuant to 11 U.S.C. § 522(f)(1)(A) and requests that the court avoid and cancel a judgment lien against real property that is fully exempt in the Debtor's bankruptcy pursuant to 11 U.S.C. § 522(b). In support of this motion the Debtor offers the following:

1. On June 29, 2023, the Debtor filed this Chapter 7 bankruptcy.
2. The Debtor owns a home located at 6286 Music Place in Maple Falls, Washington ("6286 Music Place").

1           3. The 6286 Music Place property had a fair market value of \$137,203.00 when this case  
2 was filed. The Debtor was living at 6286 Music Place when she filed this bankruptcy and  
3 continues to reside there.

4           4. There is no mortgage owing on the 6286 Music Place property.

5           5. The Debtor listed the home on her bankruptcy schedules and claimed it as exempt.

6           6. On April 9, 2021, Midland Credit Management, Inc. obtained a default judgment  
7 against the Debtor in Whatcom County District Court (Case No. CV20-1624) in the Total  
8 Judgment Amount of \$ 22,437.73. On June 14, 2023, Midland Credit Management, Inc.  
9 recorded the default judgment with the Whatcom County Auditor under recording number 2023-  
10 0601078.

11           7. Midland Credit Management, Inc.'s judgment lien against the Debtor's home at 6286  
12 Music Place impairs the homestead exemption to which she is entitled pursuant to *11 U.S.C.*  
13 *§522(b)* and is voidable pursuant to *11 U.S.C. § 522(f)*.

14           8. Midland Credit Management, Inc. was listed as a creditor on the Debtor's bankruptcy  
15 schedules.

16           9. "There are four basic elements of an avoidable lien under § 522(f)(1)(A):  
17 First, there must be an exemption to which the debtor "would have been entitled under  
18 subsection (b) of this section." 11 U.S.C. § 522(f). Second, the property must be listed on the  
19 debtor's schedules and claimed as exempt. Third, the lien must impair that exemption. Fourth,  
20 the lien must be ... a judicial lien. 11 U.S.C. § 522(f)(1)." *In re Goswami*, 304 B.R. 386, 390-91  
21 (9th Cir. BAP 2003) (quoting *In re Mohring*, 142 B.R. 389, 392 (Bankr. E.D. Cal. 1992) aff'd, 24  
22 F.3d 247 (9th Cir. 1994)).

23           10. Midland Credit Management, Inc.'s default judgment creates a judicial lien against the  
24 Debtor's home at 6286 Music Place. The home is listed on the Debtor's schedules and claimed  
25 as exempt. The lien impairs the Debtor's homestead exemption and is thus avoidable pursuant to  
26 *11 U.S.C. § 522(f)(1)*.  
27  
28

1                   **WHEREFORE** the Debtor respectfully requests the court enter an order cancelling and  
2 avoiding Midland Credit Management, Inc.'s judgment lien against her home at 6286 Music  
3 Place, Maple Falls, Washington.

4  
5 *Date:* 08/01/2023

/s/ Steven C. Hathaway

Steven C. Hathaway, Attorney for Debtor